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4 **ATTORNEY FOR TRUSTEE**
5 **RICHARD A. MARSHACK**

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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA-SANTA ANA DIVISION**

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11 In re: RAHUL CHOUBEY) **Case No.:** 8:16-bk-10288-TA
12 RICHARD A. MARSHACK, Chapter 7)
13 Trustee;) **Chapter:** 7
14 Plaintiff) **Adv. No.:** To Be Determined
15 v.)
16 RAHUL CHOUBEY, an individual; MISHA) **COMPLAINT FOR TURNOVER AND**
17 CHOUBEY, an individual; SHAHI K.) **AVOIDANCE OF PREFERENTIAL**
18 PANDEY, an individual; VANDANA) **TRANSFERS**
19 PANDEY, an individual; JITENDRA PATEL,) **11 U.S.C. Sec. 547;**
20 an individual; AZAHALEA AHUMADA, an) **11 U.S.C. Sec. 548; and**
21 individual) **11 U.S.C. Sec. 550**
22 Defendants.) **JUDGE:**
23) HON. THEODOR ALBERT
24)
25) **TRUSTEE:**
26) RICHARD A. MARSHACK

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1 **TO THE HONORABLE THEODOR ALBERT, UNITED STATES BANKRUPTCY**
2 **JUDGE, TO THE UNITED STATES TRUSTEE AND TO ALL OTHER INTERESTED**
3 **PARTIES AND THEIR ATTORNEYS OF RECORD:**

4 CHAPTER 7 TRUSTEE RICHARD A. MARSHACK files this Complaint requesting
5 turnover and avoidance of certain preferential transfers made to MISHA CHOUBEY, an
6 individual; SHAHI K. PANDEY, an individual; VANDANA PANDEY, an individual; and
7 JITENDRA PATEL, an individual, AZAHALEA AHUMADA, an individual (Collectively
8 "Defendants").

9 **I.**

10 **APPLICABLE FACTS**

- 11 1. On January 25th, 2016, Debtor RAHUL CHOUBEY ("Debtor") filed a petition
12 under Chapter 7 Title 11 of the United States Code which was assigned case
13 number 8:16-bk-10288-TA. ("BK Case"). Exhibit A.
- 14 2. RICHARD A. MARSHACK ("Plaintiff", "Trustee") was appointed the interim
15 Chapter 7 Trustee in this matter. Id.
- 16 3. The Chapter 7 341a was set for March 8th, 2016. Id.
- 17 4. No objection was taken to the appointment of the Trustee. He subsequently
18 became the permanent Trustee. Id.
- 19 5. The Chapter 7 341A was held on March 8th, 2016. Id.
- 20 6. The Debtor appeared at the 341a hearing. Id.
- 21 7. In or around March 8th, 2016, the Debtor disclosed that he had received the net
22 proceeds of approximately \$52,000 worth of money in exchange for the sale of

1 real property. Exhibit B.

2 8. Within 1 year prior to the filing of the BK Case, the following transfers were
3 made:

4 A. RAHUL CHOUBEY, an individual, the Debtor, and MISHA
5 CHOUBEY, an individual, currently the ex-wife of the Debtor, were the
6 owners, immediate or mediate transferors of property within 1 year of
7 the filing of the BK Case.

8 B. Plaintiff alleges that RAHUL CHOUBEY and MISHA CHOUBEY
9 were the agents of the other, and acted with the full authority and
10 consent of the other, regarding all transfers described herein.

11 C. RAHUL and MISHA CHOUBEY jointly received approximately
12 \$52,000 in or around April 2015 and then within the next month
13 transferred certain funds to JITENDRA PATEL, SHAHI PANDEY and
14 VANDANA PANDEY as described in the following paragraphs.

15 Exhibit C.

16 D. JITENDRA PATEL is an individual, and former father in law of the
17 Debtor.

18 E. In or around April 2013, Mr. Patel lent approximately \$10,000 to the
19 Debtor. Exhibit D.

20 F. Mr. Patel remained a creditor of the Debtor until or around April or May
21 2015.

22 G. In or around April 27th, 2015, Mr. Patel was paid back \$10,000 or more

1 in consideration of this antecedent debt by the Debtor, or alternatively
2 MISHA CHOUBEY as an agent of the Debtor. Exhibit C.

3 H. Mr. Patel was the immediate or mediate recipient of these funds.

4 I. At all times herein alleged, Mr. Patel was an insider.

5 J. SHAHI PANDEY and VANDANA PANDEY (the “Pandeys”) are
6 married individuals who are the aunt and uncle of the Debtor.

7 K. The Pandeys lent money to the Debtor in an amount equal to or greater
8 than \$24,000 in the year or two prior to the BK Case being filed. In or
9 around April or May 2015 the Pandeys remained creditors of the
10 Debtor.

11 L. In or around May 4th, 2015, the Pandeys were paid back \$24,000 of this
12 antecedent debt. Exhibit E. At all times herein alleged, the Pandeys
13 were insiders.

14 M. AZAHALEA AHUMADA is an individual and friend of the Debtor as
15 described on the Debtor’s petition. Exhibit B, supra. In the 1 year prior
16 to filing, Azahalea Ahumada received approximately \$7,000 from the
17 Debtor or agent of the Debtor. Id. Plaintiff alleges that AZAHALEA
18 AHUMADA failed to provide any consideration in exchange for these
19 funds.

20 N. At all times alleged herein, Plaintiff alleges that the Debtor was
21 insolvent.

22 9. Based on the Debtor’s testimony, and preliminary research conducted by the

1 Chapter 7 Trustee, it appears as if the transfers in question would be an asset of
2 the estate.

3 10. Based on preliminary research conducted by the Chapter 7 Trustee, it appears as
4 if the transfers would produce income for the estate if liquidated.

5 11. The Trustee filed a Notice of Assets in this matter on March 10th, 2016. Exhibit
6 A, supra.

7 12. The Bar Date for Non-Governmental Claims to be filed in this matter passed on
8 June 13th, 2016. Id.

9 13. The Bar Date for Governmental Claims filed in this matter passed on July 25th,
10 2016. Id.

11 14. Total claims filed in this case constitute \$155,387.24 of which \$155,387.24
12 represents unsecured non-priority claims. Exhibit E.

13 **II.**

14 **JURISDICTION AND VENUE**

15 15. On January 25th, 2016 the Debtor commenced this Chapter 7 Proceeding in this
16 bankruptcy court. Exhibit A, supra.

17 16. As a consequence of the Debtors' filing, this court has jurisdiction over this
18 proceeding pursuant to 28 U.S.C. Sec. 1334(a), 28 U.S.C. Sec. 157(a) and 28
19 U.S.C. Sec. 157(b)(1). Venue is proper before this court under 28 U.S.C. Sec.
20 1409(a). This adversary action is a "core proceeding" over which this court had
21 exclusive jurisdiction as stated in 28 U.S.C. Sec. 157(b)(2)(A), (E), and (J).

22 **III.**

STANDING

17. Plaintiff has standing to file this adversary action under Bankruptcy Code 11 U.S.C. Sec. 105, 28 U.S.C. Sec. 2201, 11 U.S.C. Sec. 542(a), and Federal Rule of Bankruptcy Procedure (“FRBP”) 7065, as the duly appointed and acting Trustee for the estate under 11 U.S.C. Sec. 704.

IV.

11 U.S.C. Sec. 547

AVOIDANCE OF A TRANSFER

(Against All Defendants other than Azahalea Ahumada)

18. Plaintiff reasserts and re-alleges herein all prior statements by this reference.

19. The payments made to DEFENDANTS other than AZAHALEA AHUMADA were payments made to pre-petition creditors of the Debtor.

20. The payments made to DEFENDANTS other than AZAHALEA AHUMADA described herein were on account of antecedent debts.

21. The payments made to DEFENDANTS other than AZAHALEA AHUMADA
were made while the Debtor was insolvent

22. Such payments were made to insiders other than AZAHALEA AHUMADA within 1 year prior to the filing of the petition on January 25th, 2016.

23. Such payments provided Defendants other than AZAHALEA AHUMADA with
more than they would receive if the case was a case under Chapter 7 of this
title; There are no assets in this case other than these transfers and such transfers
would fail to pay the creditors of the BK Case in full.

24. Plaintiff alleges that none of these transfers were contemporaneous exchanges for new value, or intended to be such exchanges.

25. The Trustee request that these transfers be avoided pursuant to 11 U.S.C. Sec.
547.

V.

11 U.S.C. Sec. 548

AVOIDANCE OF A TRANSFER

(Against All Parties)

26. Plaintiff realleges and reasserts herein all prior allegations alleged herein by this reference.

27. The transfers made to Defendants were made within two years of the petition.

28. The Debtor did not receive reasonably equivalent value in exchange for these funds.

29. The Debtor was insolvent at the time these transfers were made.

30. The Plaintiff alleges that the Defendants were insiders at all times herein
discussed

31. The Trustee requests that these transfers be avoided pursuant to 11 U.S.C. Sec.
548

VI

11 U.S.C. Sec. 550

LIABILITY OF TRANSFEREE

(Against All Parties)

1 32. Plaintiff realleges and reasserts herein all prior allegations alleged herein by this
2 reference.

3 33. For each respective transfer, DEFENDANTS were the immediate or mediate
4 transferee of the transfers, and each were insiders.

5 34. If any transfer is shown to be to a mediate transferee, Plaintiff alleges that such
6 transfer was intended to hinder he other creditors of the estate.

7 35. Once avoided by the court, the Trustee requests that the court order the recovery
8 of these transfers or the value of these transfers from each DEFENDANT.

9 **VI.PRAYER**

10 By this Complaint, the Trustee requests:

- 11 1. All transfers alleged herein be avoided pursuant to 11 U.S.C. Sec. 547; and/or
12 2. All transfers alleged herein be avoided pursuant to 11 U.S.C. Sec. 548;
13 3. All Defendants be held liable for the value of the recovery of these transfers of
14 each respective transfer avoided pursuant to 11 U.S.C. Sec. 550; and
15 4. Such other relief that the court finds just and appropriate.

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17 Date: July 19, 2017

Signed:/S/ ANERIO V. ALTMAN, ESQ.
ANERIO V. ALTMAN, ESQ.
ATTORNEY FOR
CHAPTER 7 TRUSTEE
RICHARD MARSHACK

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